THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 13804 of 2005

Dated: 07-02-2006

Between:

A.P. Kerosene Retail Sellers Federation,

Rep., by its President N.Srinivas Reddy,

Nacharam, R.R.District.

..... PETITIONER

AND

The Government of Andhra Pradesh,

Rep., by its Prl. Secretary,

Civil Supplies Department,

Secretariat, Hyderabad and another

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13804 of 2005

O R D E R:

The petitioner claims to be a registered association of kerosene retail sellers.

This writ petition is filed seeking a declaration that the alleged action of the respondents in trying to discontinue the Notified Retail Shop System for sale of kerosene is arbitrary and illegal.

It is stated that as per the provisions of Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973, the kerosene was not included in the list of commodities specified under the Schedule and therefore, the kerosene was used to be distributed through the retail dealers, who were holding licences under the Andhra Pradesh Petroleum Products (Licencing and Regulation of Supplies) Order, 1980. Thus kerosene was excluded for distribution through fair price shops. Subsequently, G.O.Ms.No.1350 dated 24-07-1987 was issued under which kerosene was also added to the Schedule under the Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973. However, the existing licences granted under the Andhra Pradesh Petroleum Products (Licencing and Regulation of Supplies) Order, 1980 have been continued and the licences in favour of the members of the petitioner-association are being renewed from time to time. While so, the respondents started issuing new ration cards so as to eliminate the bogus cards in circulation. So far as the supply of kerosene is concerned, the respondents have been issuing kerosene coupons to the cardholders. It is pleaded that in the new cards being issued as well as in the kerosene coupons, the respondents have not mentioned the number of the Notified Retail Shops for distribution of kerosene. Hence, the petitioner apprehends that the respondent authorities are going to discontinue the Notified Retail Shop System. Hence, this writ petition contending *inter alia* that the action of the respondents in abolishing the system of Notified Retail Shop System without framing any policy with regard to the distribution of kerosene to the cardholders is arbitrary and illegal. The petitioner in support of his contentions placed reliance upon a decision of a Division Bench of this Court in ***Manda Visweswara Rao vs. D. Venkateswara Rao***, in which it was observed that there was no statutory bar for the Government authorities to grant licences to the kerosene hawkers to distribute kerosene to the consumers.

The Deputy Director (PDS-II) filed a counter affidavit on behalf of the respondents stating that the intention of the Government is to make available all essential commodities including kerosene under one roof i.e., fair price shop

and therefore, issued orders vide Government Memo No.1584 dated 26-04-1994 ordering that there should not be any appointment of new kerosene retailers in future. Accordingly, no fresh licences are being issued to the Notified Retailers ('NRs' for short)/Hawkers. However, basing on the recommendations of the Committee consisting a group of Ministers constituted for strengthening the PDS network in the State, all the Collectors (CS)/Chief Rationing Officers, Hyderabad, were requested to convert the retail kerosene shops into fair price shops in a phased manner subject to fulfillment of eligibility conditions, vide proceedings dated
19-03-2005. Subsequently, instructions were also issued to all the Collectors (CS)/ Chief Rationing Officer, Hyderabad, vide proceedings dated 31-05-2005 for converting the retail shops into fair price shops i.e. whenever a vacancy of fair price shop arises, such vacancy shall be filled in by converting the retail kerosene shop dealer functioning in that area into fair price shop dealer, if the retail kerosene shop dealer is otherwise eligible as per Government Orders. Though it is admitted that no column for number of Notified Retail Shop was made available in the new ration cards since the system of NR/Hawker was not existing through out the State of Andhra Pradesh, it was made clear that the omission was not with an intention to discontinue the Notified Retail Shop System at once, but wherever the NRs/Hawkers are available, the authorities concerned are at liberty to mention the number of Notified Retail Shops in the ration cards for supply of PDS kerosene through the existing NRs/Hawkers.

In view of what has been stated in the counter affidavit filed by the respondents, it is clear that the existing Notified Retail Shop System is not going to be discontinued even after the distribution of new ration cards. Hence, the apprehension of the petitioner is without any basis.

In the circumstances, no further enquiry is necessary in the writ petition. Accordingly, the writ petition is disposed of recording the statement of the respondents that wherever NRs/hawkers are available, the authorities concerned are granted liberty to mention the number of Notified Retail Shops in the new ration cards for supply of PDS kerosene through the existing NRs/Hawkers.

The writ petition is disposed of accordingly. No costs.

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G.ROHINI,J

Dated:07-02-2006

Note: Issue CC in three days.

B/o

Klp/ghn